

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
TUESDAY, JANUARY 21, 2014 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

Mayor Gatt called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Members Casey, Fischer, Markham, Mutch, Wrobel

ALSO PRESENT: Clay Pearson, City Manager
Victor Cardenas, Assistant City Manager
Thomas Schultz, City Attorney

APPROVAL OF AGENDA:

CM 14-01-012 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the Agenda as presented.

Roll call vote on CM 14-01-012 **Yeas: Staudt, Casey, Fischer, Markham,
Mutch, Wrobel, Gatt**
Nays: None

PUBLIC HEARING - None

PRESENTATIONS - None

REPORTS:

1. MANAGER/STAFF - None
2. ATTORNEY - None

AUDIENCE COMMENT – None

CONSENT AGENDA REMOVALS AND APPROVALS (See items A-F):

CM 14-01-013 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
1. January 11, 2014 – Regular meeting
 2. January 11, 2014 – Special meeting

- B. Enter Executive Session immediately following the regular meeting of January 21, 2014 in the Council Annex for the purpose of discussing pending litigation, labor negotiations, property acquisition and privileged correspondence from legal counsel.
- C. Approval of a Street Light Purchase Agreement with Detroit Edison Company for the installation and ongoing operation costs of two street lights near the intersection of Valencia Drive and Beck Road to serve the Valencia Estates development; and approval of an agreement with Beck Ten Land LLC for the installation and ongoing operation costs per the City's Street Lighting Policy.
- D. Approval of a Street Light Purchase Agreement with Detroit Edison Company for the installation and ongoing operation costs of three street lights near the intersection of Medina Blvd and 12 Mile Road to serve the Andelina Ridge development; and approval of an agreement with Pinnacle-Novı 12, LLC for the sharing of installation and ongoing operation costs per the City's Street Lighting Policy.
- E. Acceptance of an Open Space Preservation Easement from Pinnacle – Novi 12, LLC for permanent preservation of the park areas on the Andelina Ridge site, located south of Twelve Mile Road and east of Napier Road in Section 18 of the City.
- F. Approval of Claims and Accounts – Warrant No. 908

Roll call vote on CM 14-01-013

**Yeas: Casey, Fischer, Markham, Mutch,
Wrobel, Gatt, Staudt
Nays: None**

MATTERS FOR COUNCIL ACTION:

- 1. Approval of Resolution for Adoption of strategic themes for the Novi City Council and the early budget input goals for Fiscal Year 2014-2015.

City Manager Pearson said this item establishes the strategic themes and voting at the Early Budget Input Session for Fiscal Year 2014-2015 held a little over a week ago. He announced a budget will be delivered by April that reflects most, if not all, of the priorities Council discussed.

CM 14-01-014

Moved by Staudt, seconded by Fischer; CARRIED UNANIMOUSLY:

To approve a Resolution for Adoption of strategic themes for the Novi City Council and the early budget input goals for Fiscal Year 2014-2015.

Roll call vote on CM 14-01-014

**Yeas: Fischer, Markham, Mutch, Wrobel, Gatt,
Staudt, Casey
Nays: None**

2. Approval of Resolution for Adoption of the 2014 City of Novi Economic Development Goals & Strategies; and Review of 2013 Economic Development Goals Report.

City Manager Pearson explained this item is the January work product for setting the calendar year's government goals and strategies the City Council recognizes. He noted they have taken a lot of input from Council and opportunities that have happened over the last year.

CM 14-01-015 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve a Resolution for Adoption of the 2014 City of Novi Economic Development Goals & Strategies with a change to the second whereas to read: WHEREAS; the City of Novi must continue to invest in attracting and retaining businesses locally, nationally, and internationally; and Review of 2013 Economic Development Goals Report.

Roll call vote on CM 14-01-015

**Yeas: Markham, Mutch, Wrobel, Gatt, Staudt,
Casey, Fischer
Nays: None**

3. Consideration to adopt resolution regarding additional direction to and additional members for Charter Review Committee.

City Manager Pearson explained this was one of the top priorities of the Early Budget Input Session in 2013. There was a Charter Review Committee formed and they prioritized and recommended changes that went to a public vote. This resolution suggests Council reconstitute a Charter Review Committee for 2014 with additional members.

Mayor Gatt added that after the election it was apparent that some of the citizens felt they didn't have enough information about what the City was trying to accomplish and, therefore, the thought is to add a couple of local well-known community members.

Member Wrobel said as a member of the Committee last year, he thought they did a lot of work and they still have a lot to do. He agrees with the addition of new members. He noted it would give them new perspective, as well as, helping to get the word out to the Community. He thinks this time they need to be more cautious and more progressive in educating the Community.

CM 14-01-016 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve adoption of a resolution regarding additional direction to and additional members for Charter Review Committee.

Member Fischer echoed the sentiments of the prior speaker. He thinks it is important that the existing Committee members listen to the new members and they should be given the opportunity to share anything that may need to be changed.

Mayor Gatt understands and the whole Committee will have the opportunity to review anything they want. The Committee is open to ideas and the meetings are open to the public.

Roll call vote on CM 14-01-016

Yeas: Mutch, Wrobel, Gatt, Staudt, Casey, Fischer, Markham

Nays: None

4. Consideration of Policy and Rules Regarding City Employees Signing Contracts recognizing certain practices and adding Appendix A to the City's Purchasing Policy.

City Manager Pearson said this item is to document our past practice of how smaller contracts are executed. It is a supplement to the purchasing policy that Council has established. He noted this is something the City Attorney recommended in reviewing the documents that come through the City Clerk's Department.

Member Fischer wanted to clarify that this doesn't change the spending authority of the City Manager or any City employee. It is a policy that gives each employee the ability to actually sign the document within the spending authorities that Council already has outlined and approved.

City Manager Pearson said it establishes what constitutes a contract. When employees order something, it is a contract and it follows the maximums and dollar amounts Council has already set.

Member Fischer said he appreciates the aspects that liabilities, warranties, and indemnification requires a review. He thinks there are sufficient safeguards.

CM 14-01-017 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:

To approve consideration of Policy and Rules Regarding City Employees Signing Contracts recognizing certain practices and adding Appendix A to the City's Purchasing Policy.

Roll call vote on CM 14-01-017

**Yeas: Wrobel, Gatt, Staudt, Casey, Fischer,
Markham, Mutch**

Nays: None

5. Approval of Ordinance No. 14-23.30 to amend the City of Novi Code of Ordinances at Chapter 22, "Offenses," Article I, "In General," Section 22-7, "Begging in Public Places," in order to revise existing regulations relating to begging and to provide a specific prohibition against aggressive begging, as defined. **FIRST READING**

City Manager Pearson said it is something our City Attorney and Police have developed. It is in light of the Supreme Court decision regarding this and follows a model that Royal Oak had adopted. The City Attorney and Police have suggested this aggressive begging ordinance to be site specific for a valid reason.

Member Mutch said he could not recall seeing anyone out begging in Novi. He asked about how many incidents have there been in the past. City Manager Pearson said the ordinance was never deployed but he thought it falls in the category of any ordinances that are preventative. He recommended it be there as a tool for law enforcement. Member Mutch wondered why it is being brought up if it has never been used.

Mayor Gatt said as a former police officer he would say it gives our law enforcement agency a tool to use if it became a problem. If there wasn't a law regulating it, then there would be no ability to address the issue.

Member Mutch appreciated their perspective, but he could see the utility if it had been used in the past.

Member Fischer said there are a lot of laws and ordinances that have never been used but he thought they have done a good job as an Administration dealing with pressure that has been put on the City to look at this in changing legal times.

CM 14-01-018

Moved by Fischer, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve Ordinance No. 14-23.30 to amend the City of Novi Code of Ordinances at Chapter 22, "Offenses," Article I, "In General," Section 22-7, "Begging in Public Places," in order to revise existing regulations relating to begging and to provide a specific prohibition against aggressive begging, as defined. FIRST READING

Member Wrobel said he will be supporting this because the City was basically forced into to this by the Circuit Court of Appeals decision and we might as well address it now. Hopefully, it won't be used in the future but would rather have on record if needed.

Roll call vote on CM 14-01-018

**Yeas: Gatt Staudt, Casey, Fischer, Markham,
Mutch, Wrobel**

Nays: None

6. Consideration of the request of Toll Brothers, Inc. for The Preserve at Island Lake JSP13-69, for approval of the proposed Seventh Amendment to the Residential Unit Development (RUD) Agreement and Plan. The subject property to be included as part of the amendment is 48.95 acres of land located at the northeast corner of Ten Mile Road and Napier Road. The applicant is proposing a 45 unit single family development that would be Phase 8 of the existing Island Lake of Novi development.

City Manager Pearson mentioned that Toll Brothers has been very successful with the Island Lake Development and it is a great addition to the residential mix of housing options in Novi. They have added a phase on the Dinser property and now this proposal is for phase 8 that incorporates land into the integrated Island Lake Development. It is a positive as opposed to a stand-alone development. This property is at the corner of Napier and Ten Mile. Planning Commission gave this plan a positive recommendation.

Mike Noles, Vice President of Land Development Toll Brothers, said this phase will have 45% open space. They held public meetings at the Boathouse to receive input from the residents. The noted changes to the plan, as a result of the meetings, included an entrance out to Ten Mile; at the clubhouse they added a kiddie pool which will expand the deck even further to separate the different age groups. Also, the residents were concerned about speeding. As a result, they have incorporated traffic calming measures to slow traffic. These were the three notable changes. He stated they received a unanimous recommendation for approval from the Planning Commission. They also gave them direction on a pathway in the plan.

Mayor Pro Tem Staudt had concerns about the developments built on Ten Mile Road in Lyon Township that are feeding into Ten Mile. This phase would have more traffic going onto Ten Mile, especially those going east and asked Mr. Noles about the implications. Mr. Noles said there was a traffic study done by the City traffic consultant that said it wouldn't have a negative impact. He understood that the Ten Mile and Napier Road is a difficult intersection to navigate and knew there were long term plans to improve that intersection that might include signalization, but not as a result of this new phase. Mayor Pro Tem Staudt said it was clear that this development will not impact the development right now but looking forward and thinking about ten years from now, the land across the street may be developed. He asked him to think about the future when they may have to come forward to ask for some traffic mitigation.

Member Wrobel asked Barb McBeth, Deputy Community Development Director, to address his concerns about the effect of this phase of Island Lake being placed near the Ten Mile/Napier interchange. Ms. McBeth noted the Traffic Engineer determined it looked satisfactory. It would be a minor amount of traffic generated by this

development. She said everyone agrees that sometime in the future, some improvements will be needed. They have been looking at the intersection of Napier and Ten Mile Road with the Oakland County Road Commission. She said 2017 is the anticipated year that the improvements will be made to that intersection.

Member Mutch asked Mr. Noles if the property is within the South Lyon School District. Mr. Noles confirmed that it was. He noted Jason Minock, Vice President of Operations Toll Brothers, has had some conversations with the School District Superintendent. They are trying to annex the property into the Novi School District, but have not come to terms at this time. Member Mutch said it would be logical that it would be Novi Schools when looking at the map. Mr. Noles said the original development property was also annexed into the Novi School district and this piece was not. The holdup is strictly financial. The South Lyon Schools has determined the loss of tax revenue is greater than our perception of the value of moving the school district. The School District is looking for some financial reimbursement. He answered also that the schools will be to the west of the development. Member Mutch concluded that there will be added bus and car traffic that will traverse that intersection. He noted it is a dangerous intersection that needs to be addressed. Lyon Township has made an effort to address the issue. There are two new developments going into the Northwest and Southwest corners of the intersection. Those developers are contributing monies towards improvements in the area. He thinks the improvements Toll is making will only benefit the residents of Island Lake. He is looking for a public benefit that would offset the impact the additional density will affect our roads. The contribution he is requesting is similar to what the other communities have requested of the developers. He cannot approve the additional density of 884 to 903 to the overall RUD without some offsetting public benefit.

Member Markham was concerned with the increased density without some amount of compensation. She didn't know how the increased density goes from .92 to .90. She noted there will be a greater population projected than originally because the houses typically have a bigger family than the smaller attached units. She agreed with Member Mutch and is troubled by the increased density's effect on the intersection and that part of the City. She said she would not support it at this time.

Mayor Pro Tem Staudt requested a response about any additional benefit to the community. Mr. Noles said every development has its tradeoffs. In the case of the Lyon Township developments, they are trading density for dollars. We are not coming in with a dense neighborhood. He said they are only adding 17 more units than the original approved number of units, though we added around a hundred acres of land. It has been diluted from the original number to what it is today. He felt preservation of 45% of the property is a substantial goal. It is more than what was in the original in the RUD. It is more than the last development that was approved. He said there are substantial infrastructure needs that will be accompanied by this development including adding a pump station and Drake's Bay pump station will also be upgraded. The open space and infrastructure improvements are public benefits. His understanding is a tri-party agreement has been holding up the intersection improvement. Lyon Township is the last party to complete the agreement and that is why they are asking the developers for help with the infrastructure improvement. The City of Novi needed an orderly

development of its sewer system and to preserve the open space which it values so highly. They have stepped up and done what they have been asked to do in this particular case. The plan is consistent with the remainder of the development. They have been here for twelve years and have created a fantastic development. It will be the last phase. Mayor Pro Tem Staudt asked City Manager Pearson to comment on the discussion of the intersection. Mr. Pearson said he didn't know if it is to the point of negotiation, but we have discussed the intersection. We have talked with Oakland County about improving the intersection. The City is willing to go forward with a 10% share. It is a matter of scheduling with Oakland County. He thought 2017 was projected with the Road Commission. We would like to explore advancing reimbursement so we can get it done quicker. This is an all residential development at the corner. There are advantages for it to be incorporated in the established community as the applicant has stated. Mayor Pro Tem Staudt asked what Novi's estimated responsibility for the improvement was. Rob Hayes, Director of Public Services, said the County's current estimate for the project is about \$2.2 million and Novi's share would be 10% of that amount. Mayor Pro Tem Staudt asked about the monies that Lyon Township is going to get from the developers and what are they going to spend the money on. Mr. Hayes said it will be a combination of the paving portion of the project and/or the intersection. Mr. Staudt asked if they are paying more than Novi is paying. Mr. Hayes didn't know because the discussions they have had are preliminary. Mr. Pearson said they are going to use the monies to cover their share because the Township doesn't have a road millage. Mayor Pro Tem Staudt said this intersection is discussed frequently and the sooner the issue is addressed, the better it is for everyone. He wished Oakland County would move more quickly on it.

Member Wrobel would like to meet with the Planning Commission before deciding on this item because Council members have a lot of questions.

Member Mutch said the new pump stations and upgrades are driven by the new development. He wants to recognize the trade off in terms of density that has an impact on the roads. Public benefit should be offset beyond what is required of the applicant. If a developer had the standard zoning, they would have had to do all the improvements that are in the plan now. He thinks the residents of Island Lake would appreciate having the Ten Mile/Napier Road intersection improved sooner rather than later. He noted that \$220,000 is not an insignificant amount towards a County project. A contribution to help with the City contribution would be a public benefit. He didn't think it was an unreasonable request. He agreed with what Member Wrobel said. The Planning Commission's approvals are discretionary.

CM 14-01-019 Moved by Mutch, seconded by Wrobel: *LATER WITHDRAWN

To table consideration of the request of Toll Brothers, Inc. for The Preserve at Island Lake JSP13-69, for approval of the proposed Seventh Amendment to the Residential Unit Development (RUD) Agreement and Plan. The subject property to be included as part of the amendment is 48.95 acres of land located at the northeast corner of Ten Mile Road and Napier Road. The applicant is

proposing a 45 unit single family development that would be Phase 8 of the existing Island Lake of Novi development to discuss for possible public contribution.

Member Fischer asked what Mr. Noles thought he would have to do to the plan to accommodate that type of benefit Council is asking for and what additions would have to be diminished in this packet to make that happen. Mr. Noles answered that he didn't consider public benefit as monetary. He said there is 45% open space and is considered a significant public benefit in and of itself. They have offered the infrastructure upgrades. He explained the original pump station was built by Island Lake and they paid approximately \$1.1 million for offsite improvements that benefited third party properties and a reimbursement agreement that spanned several decades. They have a long way to go to recoup it. They propose to add 45 units that are just a little over the underlying zoning. They are again building a pump station to service off site parties even though Toll built the original pump station. He doesn't think it seems fair. He didn't know what else he could do other than write a check for the intersection and it didn't seem fair to put that burden on these 45 units. It is a pro rata problem because they are not the ones generating the intersection problem. They have a traffic report that says they don't exacerbate the problem. So to attribute the increase to the existing problems with the intersection on top of other benefits does not seem commensurate. However, they wish to continue business here and they will take a look to see if it is a feasible project with the additional burdens. Member Fischer said the question is what will we have to give up and realizes there will be things we will have to give up in exchange for the check. He didn't see much benefit tabling, it but hoped some good came out of it. If we ask for monetary, but we are giving up open space, he thought Council would be doing a disservice to the Community.

Mayor Gatt agrees with Member Fischer. He thinks the applicant has gone through the process and done a good job. He noted that Ten Mile/Napier intersection has been a problem of the City for many years. It is a County road so it is not up to us whether they pay to have the project done. He mentioned that the burden should not be put on the applicant. He didn't think it was fair. Mayor Gatt feels they have shown a public benefit with the 45% open space. He is going to support the motion to table only because the proposal may not pass and will not support a new proposal if the applicant has to pay for more than they have already proposed.

Member Wrobel appreciates the 45% open space but of that 45%, how much is buildable land. Mr. Noles answered that it is 28% is buildable land. He noted there is an area of woodlands and uplands that they are preserving and they are very proud of the plan.

Member Casey supports the motion to table to allow the applicant to consider what has been discussed and potentially give some more input. She is concerned as to what is going to happen to the Napier intersection. She hopes that the developments Lyon Township is adding may help put the impetus behind the Road Commission. We have always asked for more open space and now some of the Members are saying we are

looking for something different. She wasn't sure if she was looking for them to contribute to an intersection that their development has an exit before the intersection.

Mayor Pro Tem Staudt will not support tabling the motion. He thinks the arguments made to this point are irrelevant to this point. He is concerned about traffic, but thought they should not have responsibility for the intersection. He thinks the homes in the development will more than offset the cost of anything the City will do at the intersection in the future. He was leaning towards tabling this, but now is asking for a vote. We are holding up one of our keynote developments. He didn't think this was fair. He said it is time to move forward with this development.

Member Mutch determined the majority of Council was not in support of tabling this item and withdrew his motion*. Member Wrobel withdrew his second on the item. Member Mutch noted he has a Planning Commission background and feels Council needs to get an understanding of the impact of density on this Community over the long term. He disagreed with the amount of dollars it will generate to pay for the Ten Mile/Napier intersection improvement. When we approve additional density above what zoning allows, it will have a long-term impact on the Community. He thinks the developers should be requested to play a part in addressing the impact so the taxpayers are not burdened. He didn't think what is being asked is an unreasonable request in return for allowing additional development beyond the underlying zoning. He feels there is a problem with this process where all the relevant policy decisions are done before it reaches City Council. The process should be reviewed and revisited at a future date.

Mayor Gatt confirmed with Mr. Pearson that the intersection would not be improved any quicker if they decide to extract money from the developer.

Member Fischer thinks Council has every right and ability to postpone this item but didn't think there are the votes to do it. He thinks the process works just fine. Council has the oversight and he thinks the applicant has met that burden.

CM 14-01-020 Moved by Fischer, seconded by Staudt; MOTION CARRIED: 4-3

To approve the Amended Residential Unit Development Plan for the Preserve at Island Lake of Novi to be added to the Island Lake of Novi RUD (Amended RUD Plan), with the total number of units permitted in the Island Lake of Novi RUD, including the added 48.95 acre parcel, not to exceed 903 units. This motion is based on the following findings, lot size modifications, street width reduction and sidewalk/pathway location variances and conditions:

Determinations (Zoning Ordinance Section 2402.8.A):

- a. The site is zoned for and appropriate for the proposed single-family residential use;**

- b. Council is satisfied that with the proposed road connections, pathway and sidewalk network, added open space, and contributions to the existing Island Lake of Novi amenities, the development will not have detrimental effects on adjacent properties and the community, particularly given the fact that a significant portion of the area affected is a part of the Island lake community;
- c. Council is satisfied with the applicant's commitment and desire to proceed with construction of 45 new homes as demonstrating a need for the proposed use;
- d. Care has been taken to maintain the naturalness of the site and to blend the use within the site and its surroundings through the preservation of over 65% of the regulated trees and 96% of the regulated wetlands, and 20.4 acres (or 45.3%) of the proposed development area as open space;
- e. Council is satisfied that the applicant has provided clear, explicit, substantial and ascertainable benefits to the City as a result of the Amended RUD, including but not limited to improvement of traffic circulation, inclusion in the existing storm water treatment system, orderly and efficient layout and construction of water and sanitary sewer utilities, and pedestrian safety improvements;
- f. Factors evaluated (Zoning Ordinance Section 2402.8.B):
 - 1. Subject to the lot size modifications, street width reduction and sidewalk/pathway location variances also being approved by this motion, all applicable provisions of the Zoning Ordinance, including those in Section 2402 and for special land uses, and other ordinances, codes, regulations and laws have been or will be met;
 - 2. Council is satisfied with the adequacy of the areas that have been set aside in the existing and proposed addition to the Island Lake RUD development area for walkways, playgrounds, parks, recreation areas, parking areas and other open spaces and areas for use by residents of the development;
 - 3. Based on and subject to the recommendations in the December 2, 2013 City traffic consultant's review letter, and the placement of the pathway along Napier Road as depicted in the suggested walk alignment, Council is satisfied that the traffic circulation, sidewalk and crosswalk features and improvements for within the site have been designed to assure the safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets;

4. Based on and subject to the recommendations in the December 2, 2013 City traffic consultant's review letter, Council is satisfied that the proposed use will not cause any detrimental impact in existing thoroughfares in terms of overall volumes, capacity, safety, travel times and thoroughfare level of service;
5. The plan provides adequate means of disposing of sanitary sewage, disposing of stormwater drainage, and supplying the development with water;
6. The Amended RUD will provide for the preservation and creation of approximately 45.3% of the site as open space and result in minimal impacts to provided open space and the most significant natural features;
7. The Amended RUD will be compatible with adjacent and neighboring land uses for the reasons already stated;
8. The desirability of conventional residential development on this site in strict conformity with the otherwise applicable minimum lot sizes and widths being modified by this motion is outweighed by benefits occurring from the preservation and creation of the open space and establishment of the park facility that will result from the Amended RUD;
9. Any detrimental impact from the Amended RUD resulting from an increase in total dwelling units over that which would occur with conventional residential development is outweighed by benefits occurring from the preservation and creation of open space and the establishment of the park facility that will result from the Amended RUD;
10. Council is satisfied that the proposed reductions in lot sizes are the minimum necessary to preserve and create open space, to provide for the park site, and to ensure compatibility with adjacent and neighboring land uses, primarily the existing Island Lake of Novi RUD development of which this site will become a part;
11. The Amended RUD will not have a detrimental impact on the City's ability to deliver and provide public infrastructure and public services at a reasonable cost;
12. Council is satisfied that the applicant has made or will make satisfactory provisions for the financing of the installation of all streets, necessary utilities and other proposed improvements;
13. Council is satisfied that the applicant has made or will make satisfactory provisions for future ownership and maintenance of all common areas within the proposed development; and

14. Proposed deviations from the area, bulk, yard, and other dimensional requirements of the Zoning Ordinance applicable to the property enhance the development, are in the public interest, are consistent with the surrounding area, and are not injurious to the natural features and resources of the property and surrounding area.
- g. Modification of proposed lot sizes to a minimum of 14,440 square feet and modification of proposed lot widths to a minimum of 91 .22 feet is hereby approved with this approval based on and limited to the lot configuration shown on the preliminary plan as last revised, as the requested modification will result in the preservation of open space for those purposes noted in Section 2402.3.8 of the Zoning Ordinance and the Amended RUD will provide a genuine variety of lot sizes;
 - h. Variance from Section 11 Table 8-A of the City's Code of Ordinance to permit a local street reduction from 28 feet in width to 20 feet in width for traffic calming chokers as depicted in the proposed plans is hereby approved;
 - i. Variance from Section 11.278 (b) (5) of the City's Code of Ordinance to permit a sidewalk along Ten Mile Road to vary more than 1 foot from the right-of-way in order to protect natural resources while still maintaining a comprehensive non-motorized transportation system as depicted in the proposed plans is hereby approved;
 - j. Variance from Section 11.258 (d) of the City's Code of Ordinance to permit a bicycle path along the northern portion of Napier Road only to vary more than 1 foot from the right-of-way in order to protect natural resources while still maintaining a comprehensive non-motorized transportation system as depicted as Option A in the proposed plans is hereby approved; and
 - k. This preliminary approval is subject to all plans and activities related to it being in compliance with all applicable provisions of the Zoning Ordinance, including Articles 3, 24 and 25, and all applicable City Zoning Ordinance approvals, decisions, conditions and permits.

Roll call vote on CM 14-01-020

Yeas: Staudt, Casey, Fischer, Gatt
Nays: Markham, Mutch, Wrobel

CM 14-01-021

Moved by Fischer, seconded by Staudt; MOTION CARRIED: 4-3

To approve the Amended Residential Unit Development Agreement for the Preserve at Island Lake of Novi to be added to the Island

Lake of Novi RUD, with the total number of units permitted in the Island Lake of Novi RUD including the added 48.95 acre parcel, not to exceed 903 units as depicted in the Amended RUD Plan for the Preserve at Island Lake of Novi with any changes and/or conditions as discussed at the City Council meeting, and any final minor alterations required in the determination of the City Manager and City Attorney to be incorporated by the City Attorney's office prior to the execution of the final agreement.

Member Mutch noted the approval of an additional 19 units and asked what it was based on. Ms. McBeth answered that it is based on additional acreage with more open space that brings the total density down. The whole phase fits the rest of the development.

Mayor Gatt commented that he concurred with Member Fischer's statement earlier. Someone may get the wrong idea that Council doesn't have a say in approving this. It is up to the majority of this Council when an item comes before us. Council has the final say. Council has the authority and power. There is a process and it is working well.

Roll call vote on CM 14-01-021

Yeas: Casey, Fischer, Gatt, Staudt

Nays: Markham, Mutch, Wrobel

7. Approval to pay the final invoice to the Michigan Department of Transportation for work associated with the construction of Highway M-5 as required by the cost participation agreement dated July 29, 1996 and authorized by City Council Resolutions dated July 2, 1997 and April 20, 1998, in the amount of \$136,911.11.

City Manager Pearson said this is an invoice brought to the City by Michigan Department of Transportation (MDOT). There was a legitimate mitigating factor with disputes on the project. We have to pay this invoice.

Member Fischer confirmed that everything was done to make sure there is no liability going forward. He asked City Attorney Schultz if there was something the City could do to prevent this from happening again. Mr. Schultz said there is no amendment to the terms on these contracts.

CM 14-01-022

Moved by Fischer, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve to pay the final invoice to the Michigan Department of Transportation (MDOT) for work associated with the construction of Highway M-5 as required by the cost participation agreement dated July 29, 1996 and authorized by City Council Resolutions dated July 2, 1997 and April 20, 1998, in the amount of \$136,911.11.

Roll call vote on CM 14-01-022

**Yeas: Fischer, Markham, Mutch, Wrobel, Gatt,
Staudt, Casey
Nays: None**

8. Approval to award an engineering services agreement with URS Corporation for design engineering services related to the 11 Mile Road (Town Center to Meadowbrook Road) Reconstruction project in the amount of \$108,799.

City Manager said this segment of 11 Mile needs attention. This amount was budgeted and allows this project to move forward.

CM 14-01-023 Moved by Wrobel, seconded by Markham; CARRIED UNANIMOUSLY:

To approve to award an engineering services agreement with URS Corporation for design engineering services related to the 11 Mile Road (Town Center to Meadowbrook Road) Reconstruction project in the amount of \$108,799.

Roll call vote on CM 14-01-023

**Yeas: Markham, Mutch, Wrobel, Gatt, Staudt,
Casey, Fischer
Nays: None**

9. Approval to award an amendment to the engineering services agreement with Orchard, Hiltz & McCliment (OHM) for additional design engineering services for the Water Distribution Storage Facility project in the amount of \$104,700.

City Manager Pearson said by building water storage, the City would be able to cut peak demand which is one of the factors in our gross water rates from Detroit Water and Sewer. The original plan was to build the storage on property south of I-96 but after further review they are ready to go forward on ground storage on 12 Mile and West Park Drive property that was recently purchased by the City. It won't go into service until 2015.

CM 14-01-024 Moved by Fischer, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve an amendment to the engineering services agreement with Orchard, Hiltz & McCliment (OHM) for additional design engineering services for the Water Distribution Storage Facility project in the amount of \$104,700.

Roll call vote on CM 14-01-024

**Yeas: Mutch, Wrobel, Gatt, Staudt, Casey,
Fischer, Markham
Nays: None**

10. Approval of traffic control orders 13-53 through 13-71 for traffic control signs within the Village Oaks Neighborhood.

City Manager Pearson said this is a part of reviewing signage and traffic controls in the different neighborhoods. There was a request for additional background when this first came before Council. The staff has provided more information for the consideration of new signage.

Mayor Pro Tem Staudt said he would continue to not support this motion. He is not convinced that adding 19 new signs to Village Oaks is a prudent decision. He didn't see the safety value of them. He said it is a forty-year-old development. He was not prepared to support it at this point.

Member Fischer echoed the sentiments of Mayor Pro Tem. He believes they should be more cognizant of where we put signs. He didn't see the need for signs on both ends of one of the roads in the development. There are incidents like this throughout this proposal. It is incumbent on staff to convince them that they are necessary. He didn't think it had been accomplished.

CM 14-01-025 Moved by Fischer, seconded by Staudt; MOTION CARRIED: 4-3

To deny the traffic control orders 13-53 through 13-71 for traffic control signs within the Village Oaks Neighborhood.

Member Wrobel said he would support to deny this motion. It is a subdivision that has been established for a long time. He didn't think the new signs were justified at this time. The documentation provided to them did not convince him they are necessary.

Member Mutch asked Mr. Hayes to address the traffic safety issues that were raised in the memos that justified the additional signs. Mr. Hayes said there was a hand full of crashes at intersections where there wasn't any traffic control with a yield or stop sign. He noted that someone who lives in the subdivision would know who has the right of way. He explained they are concerned with someone who is a new driver. They have had calls regarding the issue. Member Mutch said he wasn't going to support the motion. He explained a similar situation in another subdivision. This process is to provide uniformity in placing signage throughout the City. He felt the accident information confirmed there is some need for control. He would like the uniformity to continue without preference to any particular sub.

Mayor Gatt thanked the staff for all the work done on this. He will support the motion to deny. He didn't believe there is a necessity for the signs at this time.

Member Casey appreciated the diligence that was put into this request and the need to have the intersections controlled by a yield or stop sign. She could not support the motion to deny.

Member Markham said she would not support the motion. She asked about the legal aspects if it is decided not to do what is recommended and would we have a liability. City Attorney Schultz said that governmental immunity is very broad. There are a handful of exceptions. One of them is safety on highways but in the current formulation of the law, it would be difficult and not a liability issue for the City of the paved roadway like signage. Safety is an issue but he didn't think liability should be considered in the decision.

Roll call vote on CM 14-01-025

Yeas: Wrobel, Gatt, Staudt, Fischer

Nays: Casey, Markham, Mutch

11. Approval of resolution to authorize Budget Amendment #2014-2.

City Manager Pearson said these amendments are for things that have come up in the last quarter. He mentioned that snow and ice control is not included. That information is not complete yet.

CM 14-01-026

Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve a resolution to authorize Budget Amendment #2014-2.

Roll call vote on CM 14-01-026

**Yeas: Gatt, Staudt, Casey, Fischer, Markham,
Mutch, Wrobel**

Nays: None

AUDIENCE COMMENT - None

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES - None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 8:36 P.M.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: February 3, 2014